

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROBERT HANSBURY and BARBARA ANN
HANSBURY, h/w

Plaintiffs,

v.

SUREHAUL TRANSPORT, INC., WILLIAM
MALDONADO and CHARLES SOLOMON, JR.

Defendants.

CIVIL ACTION NO. 02CV3219

ANSWER OF DEFENDANTS TO PLAINTIFFS'
COMPLAINT WITH AFFIRMATIVE DEFENSES

Answering defendants, Surehaul Transport, Inc., William Maldonado and Charles Solomon, Jr., by and through their counsel, Post & Schell, P.C., in Answer to plaintiffs' Complaint, say:

1. Denied. Answering defendants are without sufficient knowledge or information, after reasonable investigation, to be able to form a belief as to the truth of the allegations appearing in this paragraph of plaintiffs' Complaint.

2. Admitted.

3. Admitted in part, denied in part. It is admitted only that Surehaul Transport, Inc. is a New Jersey corporation. The remaining allegations appearing in paragraph 3 of plaintiffs' Complaint are denied.

4. Denied.

5. Denied.

6. Denied.

7. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary.

8. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary.

COUNT I

9. Answering defendants incorporate by reference their Answers to paragraphs 1 through 8 as though more fully set forth herein at length.

10. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. Moreover, answering defendants are without sufficient knowledge or information, after reasonable investigation, to be able to form a belief as to the truth of the allegations appearing in this paragraph of plaintiffs' Complaint.

11. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. Moreover, answering defendants are without sufficient knowledge or information, after reasonable investigation, to be able to form a belief as to the truth of the allegations appearing in this paragraph of plaintiffs' Complaint.

12. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. Moreover, it is specifically denied that answering defendant was negligent or mistakenly hooked up his tractor at the wrong loading door.

13. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. It is specifically denied that answering defendants were negligent, careless and/or reckless. Moreover, answering defendants acted reasonably, properly and with due care under the circumstances. Answering defendants are without sufficient knowledge or information, after reasonable investigation, to form a belief as to the remaining allegations appearing in this paragraph of plaintiffs' Complaint and leaves the plaintiffs to their proofs.

14. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. It is specifically denied that answering defendants were negligent, careless and/or reckless. Moreover, answering defendants acted reasonably, properly and with due care under the circumstances. Answering defendants are without sufficient knowledge or information, after reasonable investigation, to form a belief as to the remaining allegations appearing in this paragraph of plaintiffs' Complaint and leaves the plaintiffs to their proofs.

15. Denied.

16. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary.

17. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary.

18. Denied.

19. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. Moreover, it is specifically denied that answering defendants acted negligently, recklessly and/or carelessly.

Moreover, it is specifically denied that any act or omission of answering defendants in any way caused or contributed to any of plaintiffs' alleged injuries.

20. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary.

21. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. Moreover, it is specifically denied that answering defendants were negligent, careless and/or reckless. Moreover, it is specifically denied that any alleged act or omission of answering defendants in any way caused or contributed to any of plaintiffs' alleged injuries or damages.

22. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. Moreover, it is specifically denied that answering defendants were negligent, careless and/or reckless. Moreover, it is specifically denied that any alleged act or omission of answering defendants in any way caused or contributed to any of plaintiffs' alleged injuries or damages.

23. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. Moreover, it is specifically denied that answering defendants were negligent, careless and/or reckless. Moreover, it is specifically denied that any alleged act or omission of answering defendants in any way caused or contributed to any of plaintiffs' alleged injuries or damages.

24. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. Moreover, it is specifically denied that answering defendants were negligent, careless and/or reckless.

Moreover, it is specifically denied that any alleged act or omission of answering defendants in any way caused or contributed to any of plaintiffs' alleged injuries or damages.

25. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. Moreover, it is specifically denied that answering defendants were negligent, careless and/or reckless. Moreover, it is specifically denied that any alleged act or omission of answering defendants in any way caused or contributed to any of plaintiffs' alleged injuries or damages.

26. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. Moreover, it is specifically denied that answering defendants were negligent, careless and/or reckless. Moreover, it is specifically denied that any alleged act or omission of answering defendants in any way caused or contributed to any of plaintiffs' alleged injuries or damages.

COUNT II - CONSORTIUM

27. Answering defendants incorporate by reference their answers to paragraphs 1 to 26 as though more fully set forth herein at length.

28. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. Moreover, it is specifically denied that any alleged act or omission of answering defendants in any way caused or contributed to any of plaintiffs' alleged injuries or damages.

29. Denied. The allegations contained in this paragraph of plaintiffs' Complaint are denied as conclusions of law to which no responsive pleading is necessary. Moreover, it is specifically denied that any alleged act or omission of answering defendants in any way caused or contributed to any of plaintiffs' alleged injuries or damages.

WHEREFORE, answering defendants demand judgment in their favor together with counsel fees and costs.

FIRST AFFIRMATIVE DEFENSE

Defendants incorporates by reference the preceding paragraphs of their Answer as though the same were set forth herein at length.

SECOND AFFIRMATIVE DEFENSE

Defendants were not negligent, careless, and/or reckless at any time material hereto.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs may have failed to state a cause of action upon which relief can be granted.

FOURTH AFFIRMATIVE DEFENSE

The applicable Statute of Limitations may have expired prior to the institution of this action.

FIFTH AFFIRMATIVE DEFENSE

Defendants caused no injuries or damage to plaintiffs, and any injury or damage allegedly sustained by the plaintiffs may have been caused by a party other than the defendants and not within the control of defendants.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs may have assumed the risk of injury.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs may have been contributorily negligent.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs may have executed a release discharging defendants in the within action.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs' claims may be barred and/or limited by the application of the Pennsylvania Comparative Negligence Act.

TENTH AFFIRMATIVE DEFENSE

Plaintiffs may have been otherwise negligent as may be determined during the course and scope of discovery and/or trial.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred and/or limited by the applicable provisions of the Pennsylvania Motor Vehicle Responsibility Law, 75 Pa.C.S.A. Section 1701 et seq and any amendments thereto.

TWELFTH AFFIRMATIVE DEFENSE

Defendants breached no duty to the plaintiffs.

THIRTEENTH AFFIRMATIVE DEFENSE

If defendants were negligent, which is expressly denied, then the acts or omissions of defendants alleged to constitute negligence were not substantial factors or causes of the action or incident of which plaintiffs complain and/or did not result in the injuries or damages alleged by the plaintiffs.

FOURTEENTH AFFIRMATIVE DEFENSE

The intervening negligent acts or omissions of other persons or entities may have constituted superseding causes of the accident or incident of which plaintiffs complain, and any injuries or damages allegedly suffered by the plaintiffs were caused by such superseding negligence of other persons and/or entities.

FIFTEENTH AFFIRMATIVE DEFENSE

Defendants raise the Sudden Emergency Doctrine as an defense herein.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiffs are negligent as a matter of law for violation of the statutes pertaining to the operation of motor vehicle.

SEVENTEENTH AFFIRMATIVE DEFENSE

Pennsylvania Rule of Civil Procedure 238 regarding delay damages is unconstitutional.

EIGHTEENTH AFFIRMATIVE DEFENSE

Defendants reserves the right to assert at the time of trial any and all affirmative defenses revealed through discovery.

NINETEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the Statute of Limitations.

WHEREFORE, answering defendants deny any liability whatsoever and demands judgment in their favor.

Dated:

POST & SCHELL, P.C.

By: _____

Joseph R. Fowler
Attorneys For Defendants